

**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF CALIFORNIA

DARREN HARRIS,

Plaintiff,

v.

KIM , et al.,

Defendants.

CASE NO. 1:05-cv-00003-AWI-SKO PC

ORDER DENYING RULE 35 MOTION FOR  
APPOINTMENT OF INDEPENDENT  
MEDICAL EXAMINER

(Doc. 99)

Plaintiff Darren Harris, a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on January 3, 2005. On September 7, 2012, Plaintiff filed a motion seeking the appointment of a medical examiner pursuant to Federal Rule of Civil Procedure 35.

Rule 35 provides that a court “may order a party whose mental or physical condition . . . is in controversy to submit to a physical or mental examination by a suitably licensed or certified examiner.” However, Rule 35 does not contemplate authorizing Plaintiff to seek his *own* physical examination at government expense. See Tedder v. Odel, 890 F.2d 210, 211-12 (9th Cir. 1989) (“[T]he expenditure of public funds [on behalf of an indigent litigant] is proper only when authorized by Congress. . . .”) (citation and internal quotation marks omitted). Therefore, Plaintiff’s motion is DENIED.

IT IS SO ORDERED.

**Dated: November 28, 2012**

**/s/ Sheila K. Oberto**  
UNITED STATES MAGISTRATE JUDGE